IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9642 OF 2004

Mr.Rajesh Laxmansingh Rajput ...Petitioner

Vs.

Assistant General Manager & Ors. ...Respondents

Mr.S.V.Sadavarte for the Petitioner.
Mr.N.V.Masurkar with Mr.V.S.Masurkar for Respondent Nos.1, 2 & 4.

CORAM :- B.H.MARLAPALLE &
NARESH H.PATIL,JJ.
DATE :- 25TH SEPTEMBER,2006

P.C.

1. The Petitioner contends that his father died on 20th June, 2001, leaving behind two sons and a daughter, while he was in service with Respondent Nos.1 and 2 as a Lineman at Baramati, Pune The mother of the Petitioner died on 31st March, 1998. The Petitioner was born on 8th April, 1974. It is contended that the Petitioner is a Diploma holder in Civil Engineering and at present he is unemployed. The brother of the Petitioner viz. Rajkumarsing was employed in one private firm Asmita Gas Agency and earning Rs.500/- per month at the relevant time. The Petitioner's brother got married in the month of February, 1993. The Petitioner made an application to the Respondents requesting for an appointment in appropriate post on compassionate ground, in view of the death of his father.

2. The Respondent No.1, vide its communication

dated 2nd September, 2004 informed the Petitioner that Assessment Committee-Respondent No.4 herein did not find the Petitioner to be eligible for appointment on compassionate ground.

3. In response to the notice issued by this Court, the Respondent appeared and filed affidavit in reply through Respondent No.1. It is contended in the reply that the Petitioner had applied for appointment on compassionate ground vide application dated 17th July, 1991. At the time of death, the age of the Petitioner's father was 59 years and 3 months. The Petitioner's elder brother Rajkumarsing is in service with one Asmita Gas Agency and is married. It is specifically contended that both the sons of the deceased employee of Respondent No.1, received a sum of Rs.4,28,233/- (consisting of DCR Gratuity of Rs.2,16,026/-, GPF balance including an interest and additional amount Rs.1,01,619 and CGE insurance amount including contribution to Government Rs.44,448/- and encashment of leave Rs.66,140/-). According to the policy of the Respondents in considering the request for compassionate ground, the available vacancy is ascertained and the recommendations are limited to really deserving cases within the ceiling of 5% of the vacancies falling under the DR quota in any Group 'C' or 'D' post.

4. It is further stated that the Petitioner is Diploma in Civil Engineering and therefore the Petitioner is not even eligible for group 'C'/non technical post of Sr.TOA(G) Cadre, for which required educational qualification is Graduation. The revised scheme for appointment on compassionate ground is also placed on record of the Respondents. Pursuant to the order passed by this Court, additional affidavit in reply was also filed by the Respondents-Assistant General Manager (Legal). The Respondents have reiterated their earlier stand and emphasized that the Petitioner's case is not a deserving case for appointment on compassionate ground.

5. On behalf of the Petitioner, it is submitted that the Petitioner is ready to work at any place in an appropriate post and considering his acute financial stringency and the family background, his case be sympathetically considered. We have perused the scheme of compassionate appointments placed on record and the relevant clauses. It is stipulated in the scheme that while considering a request for appointment on compassionate ground, a balanced and objective assessment of the financial condition of the family has to be taken into account, its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and

the essential needs of the family etc.

6. It is settled position that appointment on compassionate ground is to be considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served and dies while in service. The purpose behind it is to meet financial crisis that arises in the family due to sudden death of earning member, on whom other members are dependent. There is no absolute vested right of employment to such a person. In ascertaining the request of the Petitioner, his family back ground and the amount received by himself and his brother under different heads was taken into consideration and the Appointment Committee, by taking overall view of the matter declined to offer a suitable post to the Petitioner. It is also to be noted that the remainder service of the Petitioner's father was only nine months to retire.

7. We do not find any error or unreasonableness in the decision making process of the Respondents in refusing the Petitioner appointment on compassionate ground. The Petition stands rejected.

(NARESH H.PATIL,J.) **(B.H.MARLAPALLE,J.)**